REMARKS

Claims 1-75 are pending in the application. Claim 12 is cancelled in favor of Claim 1 as now amended. Claims 45-59 have been withdrawn from further consideration.

Claims 1-40, 44, 60-70 and 72-75 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Ibarra (U.S. Patent No. 6,119,097) and Matsko (U.S. Patent No. 6,970,810).

Applicants disclose that store performance (or productivity), in the way of retail sales, is a function of store location, employee actions, customer flow and other factors. In order to quantify and systematically analyze and improve store performance, Applicants provide the present invention. Methods and apparatus embodying the present invention utilize sales transaction data from store sales activity. The invention system analyzes 'raw' sales transaction data as collected from a plurality of existing computer data sources (i.e. computer generated field performance data, external data, legacy data and training data) and computes (quantifies) employee sales performance or an aggregate synopsis thereof. Using this quantitative measure, the present invention develops a hypothesis for improving store performance and in turn determines recommended actions (qualitative conclusions) for employees toward improving store performance. Subsequent sales transaction data serves as a feedback loop in showing the effect on store performance of recommended actions as applied by employees. See Specification page 3, lines 5-10; page 4, lines 1-15; page 5, lines 24-page 6, line 11; page 6, lines 15-24; page 7, lines 3-16; and page 22, lines 10-18; and Figs. 2 and 7a.

In contrast, Ibarra discloses a system for manually collecting data on how employees perform relative to department performance standards. Ibarra does not make obvious utilizing and collecting from a plurality of existing electronic (computer) data sources sales transaction data as in the present invention. In Ibarra an employee and their manager must sit together to manually enter self-evaluating summarized performance data into the system. See Col 6, lines 16-26. On the other hand, by utilizing existing available electronic data sources the present invention eliminates this burden on employee/ manager time and realizes greater data accuracy and objectivity (i.e. removes subjectivity of input data) because manual data collection is unnecessary.

Restated, the present invention looks to (receives, interfaces with, or uploads) existing available computer data sources and collects (gathers) therefrom 'raw' (computer or system generated and not subsequent manager input) sales transaction data. It is this sales transaction data that is then analyzed and used to produce recommendations for improving store performance. See Specification page 7, lines 3-13; page 11, lines 15-18; page 12, lines 3-18; and Figures 2, 4, and 7b. Where Ibarra discloses manual input, Ibarra teaches away from the present invention utilizing available computer data sources and data thereof. Further Ibarra does not disclose use of a plurality of such data sources as input in contrast to the present invention as now claimed. Similarly Matsko (further discussed below) does not disclose use of a plurality of available computer data sources and collecting therefrom sales transaction data as claimed in the present invention.

The foregoing patentable distinctions are claimed in base Claims 1, 20, 60, 64 and 73-75 as now amended with the language (or similar language)

"   ...   utilizing a plurality of available computer data sources having any of field performance data, external data, legacy data and training date, collecting therefrom transaction data of store sales activity, including customer visit count data...;
            analyzing the collected transaction data to compute an aggregate synopsis of performance of a subject under observation; ...."

The claim term "field performance data" is further defined in the specification as comprising customer traffic count 56 and point of sale (POS) data 58 in Figure 4. See Specification page 6, lines 2; page 7, lines 6-8; and Figure 2. Such data is referred to as "raw data", specification page 6, line 4 and 20-21 and page 7, lines 5 and 10-11, and is not the manually inputted self-evaluation data of Ibarra.

The office admits that Ibarra does not disclose measuring and analyzing performance of a store and looks to Matsko to teach this claim limitation. However, what Matsko adds to the state of the known art is a method for collecting the elapsed time of individual retail tasks (such as scanning a sale item or tendering payment) and storing these readings in a standardized format. See Abstract, Col 3, line 51- Col 4, line 5. Matsko does not discloses a method of analyzing retail employee performance other than to state by way of background information that "poor performance by either terminal or clerk impacts the overall profitability of the store", Col 1, lines 30-32. As Matsko discloses a system for storing elapsed time for transaction tasks and Ibarra

discloses a system which utilizes manually inputted employee performance ratings, more would be required than to simply combine these teachings in order to disclose all the features of the present invention as now claimed.

Moreover, Matsko does not add to Ibarra the use of a plurality of available computer data sources and collecting therefrom sales transaction data as claimed in the present invention. Thus no combination of Ibarra and Matsko can make obvious the present invention as now claimed in base Claims 1, 20, 60, 64 and 73-75 as quoted in part above.

Claims 2-11, 13-19 depend from base Claim 1 and thus inherit these claim terms. Claim 12 is cancelled in favor of base Claim 1. Claims 21-32 and 44 depend from base Claim 20 and thus inherit these claim terms. Likewise, Claims 61-63 depend from base Claim 60, and Claims 65-72 depend from Claim 64 reciting these patentable distinctions.

Thus, Ibarra taken with Matsko does not make obvious the subject matter of the present invention claims as now amended. Thus removal of the § 103 rejection of Claims 1-40, 44, 60-70 and 72-75 is respectfully requested.

Claims 41-43 and 71 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Ibarra (U.S. Patent No. 6,119,097) and Matsko (U.S. Patent No. 6,970,810) and Osborne et al. (US. Patent No. 6,589,055).

Claims 41-43 depend from base Claim 20 and Claim 71 depends from base Claim 64. Thus the above arguments of Ibarra and Matsko as applied to base Claims 1, 20, 60, 64 and 73-75 apply here. Osborne does not add to Ibarra the use of a plurality of available computer data sources as claimed by the present invention. Thus no combination of Ibarra and Osborne makes obvious the present invention as now claimed.

Accordingly, Ibarra taken with Matsko and Osborne does not make obvious the subject matter of the claims as now amended and removal of the § 103 rejection for claims 41-43 and 71 is respectfully requested.

Applicants provide a different approach to increase retail sales store productivity and performance. Qualitative analysis is based on the customer visit or customer experience while shopping at a store, where good experiences result in sales being made. Sales made are quantitatively tracked as recorded by a general accounting system of the store and used as one source of input to the present invention in determining areas of improvement. Employee

improvement (in producing positive customer experiences resulting in sales) translates into store improvement. Applicants' invention also provides improved management, i.e., determining teams of employees that generate positive customer visits/experiences (and hence store improvement) and in turn determining a daily staffing plan per store. See for example Claims 11, 13-14 and 18-19. Nowhere in the prior art is such an approach to analyzing and improving retail sales store performance as in the claimed present invention.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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